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MORALITY AND GRAND STRATEGY:
THE EXECUTIVE BRANCH AND THE ANTI-APARTHEID ACT

by

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Domestic Context Course

December 15, 1989

Report Documentation Page				Form Approved OMB No. 0704-0188	
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1. REPORT DATE 15 DEC 1989		2. REPORT TYPE		3. DATES COVERED -	
4. TITLE AND SUBTITLE Morality and Grand Strategy: The Executive Branch and the Anti-Apartheid Act				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) National War College, 300 5th Avenue, Fort Lesley J McNair, Washington, DC, 20319-6000				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT see report					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES 15	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

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MORALITY AND GRAND STRATEGY:
THE EXECUTIVE BRANCH AND THE ANTI-APARTHEID ACT

The passage of the 1986 Comprehensive Anti-Apartheid Act marked one of the great legislative failures of the Reagan presidency. Although President Ronald Reagan suffered other defeats on foreign policy questions in Congress, the Anti-Apartheid Act was the most direct. He refused to compromise. Thus, his party deserted him and helped override his veto. While factors in both the international and domestic environment may have made any other outcome impossible, nimble footwork and a better legislative strategy might have prevented such a defeat. The Anti-Apartheid Act was a special case. Nevertheless, it provides some useful lessons for members of the executive branch.

SETTING

The 1986 Anti-Apartheid Act was not the first congressional effort to establish policy toward South Africa in law. Members of the Congressional Caucus had been trying since the late seventies to pass a sanctions bill. In 1983, the Black Caucus failed to get legislation included in the Export Administration Amendments Act. However, the cause became increasingly popular in Congress as questions about the administration's policy of constructive engagement grew.

Constructive engagement was a grand strategy for southern Africa designed by Assistant Secretary for African Affairs Chester Crocker. First described in an article in Foreign Affairs in 1981, shortly before Crocker assumed his post, constructive engagement

was to use quiet diplomacy to encourage an end to apartheid in South Africa, to foster an atmosphere conducive to resolving regional conflicts in southern Africa, and to secure independence for Namibia. Although Congress was willing to accept this strategy initially, by 1984, legislators were increasingly dissatisfied. As Crocker himself wrote, the basic parameters on apartheid and security ties were not to change, but South Africa saw Ronald Reagan's victory as the "beginning of an embrace."

Congress nearly passed a sanctions bill in 1985; President Reagan preempted by issuing an executive order which included many of the provisions in the draft legislation, including limited sanctions. However, Congress was not satisfied, and by 1986, conditions were ripe for a new effort. Congress sent a bill to the President September 12; he vetoed it September 26. By October 2, both Houses had passed an override.

The legislation enshrined in law much of the existing policy, However, it also included a series of sanctions barring imports of South African coal, iron, steel, krugerrands, and agricultural products; ending landing rights in the United States for the government-owned South African Airways; banning new corporate investment in South Africa and any new loans to government agencies; prohibiting U.S. banks from accepting deposits from any SAG agency and loans to South African government agencies; banning exports of computers to SAG agencies enforcing apartheid; prohibiting petroleum or crude oil exports; banning exports of Munitions List items; and providing for further sanctions if the

South African government (SAG) failed to take further actions to end apartheid.

According to one administration official familiar with events, the executive branch would have to have been "extremely agile" to have avoided defeat, and even then, success was "not sure." However, the administration had been successful in 1985 because of a solid legislative strategy which had included a demonstration of its concerns about South Africa in the Executive Order. What factors then hurt the administration in 1986?

THE INTERNATIONAL ENVIRONMENT

The international environment had changed markedly from 1985. It did not help the Reagan administration deal with Congress.

In South Africa, violence in the black townships had become an everyday fact of life. The evening news in America made the unrest, one official said, a continuing political serial in America's living rooms. On June 12, 1986, the South African government declared a state of emergency which sharply limited the media's ability to report but also raised further questions about the SAG's commitment to human rights.

South African President P.W. Botha refused to reconsider his policies. Having lost his sense of vision, he told Assistant Secretary Crocker in 1985 that "sanctions are your problem" and described the Reagan administration's policies as "worse than Carter's." President Reagan sent several messages to Botha who was unwilling to take any helpful action.

Meanwhile, in the international community, the drive for sanctions was gathering force. Efforts of the Commonwealth's Eminent Persons Group to curtail both township violence and the SAG's harsh response failed. The August Commonwealth meeting accepted a resolution urging member states to adopt stringent sanctions, despite British Prime Minister Margaret Thatcher's best efforts. Canada and Australia did so. West German Chancellor Helmut Kohl remained one of the few other holdouts in the West. The tide appeared to be flowing against the Reagan administration.

THE DOMESTIC ENVIRONMENT

At home, the debate about sanctions centered about the moral values of Americans. The Black Caucus and civil rights organizations initially took the lead. A crystallizing event occurred when the Free South Africa Movement organized the first in a six month series of daily demonstrations at the South African Embassy on Thanksgiving Day 1984. Americans from many walks of life participated, and 1800, including Senator Lowell Weicker, were arrested. Administration officials initially dismissed the rallies as the civil rights movement's and the Democrats' attempt to embarrass the administration after Reagan's sweeping electoral victory.

At the same time, the disinvestment movement was spreading throughout the United States. American university students were the vanguard. Archbishop Desmond Tutu, who had won the 1984 Nobel Peace Prize, was frequently the spokesman for the disinvestment

movement, even though he risked legal proceedings in South Africa for advocating such a policy. The Administration argued against disinvestment, but eventually many city councils and state legislatures passed laws calling for an end to investments in companies doing business in South Africa.

Congress was increasingly concerned about the policy of constructive engagement. Senator Nancy Kassenbaum, chairman of the Sub-Committee on African Affairs, initiated extra funding for a special human rights assistance program in 1983 following a Christmas 1982 visit. Congressman William Grey, chairman of the Black Caucus, charged in 1985 that the Administration moved faster on Eastern Europe than on South Africa. He warned that the present policy would help sow the seeds for Soviet expansion. Senator Edward Kennedy reported following his January 1985 visit that he was "disappointed at the low standing of the United States among blacks." Winnie Mandela had told him the Reagan approach was "another shoulder to the wheel of apartheid."

Conservatives in the House of Representatives also were critical of constructive engagement and South Africa. In December 1984, 35 conservative congressman signed a letter to South African Ambassador Brand Fourie warning that without efforts to end the ongoing violence and apartheid, they would have no choice but to consider legislation. They wrote that "insofar as apartheid weakens South Africa as an ally, we must take steps to convince South Africa to end its policy." The group was determined to "break the stereotype of conservatives acquiescing to apartheid."

Finally, Senate Foreign Relations Chairman Richard Lugar, who had experienced the 1960s civil rights movement when he was mayor of Indianapolis, believed that careful action was necessary to encourage change in South Africa. While he rejected the idea of total disinvestment and total sanctions, he thought that carefully targeted sanctions could send a strong message to the SAG.

Thus by the summer of 1986, congressmen and senators from across the political spectrum had come to an agreement that something had to be done to "send a message" on apartheid. As Representative Lynn Martin remarked, "The vote matters not because of what it says about South Africa. It matters more because of what it says about America."

THE EXECUTIVE RESPONSE

At the Department of State, Secretary George Shultz and Assistant Secretary Crocker viewed the gathering storm with concern. They were constantly pushing the White House for more forthcoming statements on South Africa and exploring possible compromise or "moderate" legislation with Senate Republicans. Ultimately, their efforts were doomed to failure for a variety of reasons, including:

--Presidential leadership style. President Reagan was not really interested in South Africa. Moreover, as an older conservative, he perhaps viewed the situation of the SAG more sympathetically. His unwillingness to compromise, which led to many foreign policy triumphs, did not help.

--A weak National Security Council. A series of relatively weak NSC advisors had left the Council unable to take an active role in coordinating policy. In the summer of 1986, NSC advisor John Poindexter and his colleagues were more focussed on the machinations of Iran-contra than other issues. Because of Secretary Shultz's opposition, the NSC wanted to keep the Department of State in its place. Consequently, when arguments broke out within the bureaucracy, the NSC was unable or unwilling to mediate and advise the President accordingly. This weak NSC may have cleared the four percent increase in the textile quota allotted to South Africa just as the anti-apartheid legislation came to the floor in the Senate.

--Lack of unity among Cabinet officers. Shultz, Casper Weinberger of Defense and William Casey of CIA were constantly in disagreement. Shultz and Weinberger probably shared similar views, but Casey took an opposing position. He was perhaps concerned about South Africa's geostrategic position and its role in opposing Soviet influence in the region. He may have also questioned the membership of the South African Communist Party on the central committee of the African National Congress. With his comments, he reinforced President Reagan's own tendencies.

--Opposition from White House staff conservatives. Although the question of South African sanctions was considered a foreign policy question, staffers from the domestic policy staff frequently became involved. Key among them was domestic policy advisor Pat Buchanan who was strongly opposed to sanctions and who, like Casey,

was more inclined to be sympathetic to the SAG. Similarly, President Reagan had personal friends who had associations with the SAG and perhaps colored his views. Only the White House legislative affairs office appeared helpful to State and to the Republican leadership.

These factors came together most dramatically in President Reagan's July 22, 1986, speech on South Africa. Conceived as a last ditch effort to influence the Senate following the passage of HR 4868 in the House, the speech was drafted in the Department of State and sent to the White House. Key Senate Republicans, including Majority Leader Robert Dole, Lugar and Kassenbaum visited Reagan the day before to urge him to leave the SAG no doubt of where the U.S. stood.

Although the Washington Post claimed on July 21 that the speech was being rewritten to take account of Senate views, the White House speechwriters were in fact revising the speech in other ways. The speech did contain a restatement of U.S. policy and condemn the state of emergency in South Africa. However, it made no mention of economic sanctions, not even the ones Reagan had initiated the previous year. It was also critical of the ANC and black leaders in South Africa. The SAG sighed with relief, Bishop Tutu said the West could "go to hell," and Senators Lugar and Kassenbaum introduced legislation similar to HR 4868 in the Senate. This bill, with amendments, eventually became law. The White House had lost its party.

By this time, the political climate surrounding sanctions had

become so tense that "everyone was running for cover." State officials continued to try to influence the wording of the legislation, but following the Reagan speech, Hill contacts were increasingly unsure about for whom State spoke. In early September, when passage of the legislation appeared likely, the White House legislative affairs office again tried to salvage the situation. Secretary Shultz and Assistant Secretary for International Organization Affairs Alan Keyes, a black, were sent to the Hill. Shultz and Crocker considered several options-- appointment of a black ambassador to South Africa, a Shultz visit to the region, a large new aid program for South African blacks, a special commission to review overall southern Africa policy-- which might appease the Senate. However, to announce them at the eleventh hour might have appeared insincere and done the administration more harm than good. The Department and the White House legislative affairs people decided to wait for the inevitable. When it came, President Reagan was willing to veto the bill, perhaps realizing that it would be overridden. Once the legislation became law October 2, he and the rest of the administration implemented it and their previously considered options, albeit not without renewed disputes.

OUTCOMES

The override of the veto was considered by many to be one of Congress's sharpest rebukes to President. However, it was the exception to the rule. Congress believed it must act because the

President was so out of step with the American public that a change in policy was required.

While domestic public opinion was satisfied, the legislation did create some problems overseas. In South Africa, passage provoked a sense of liberation among many; the sword had finally fallen. The SAG froze its ties with the US for nearly 18 months. Consequently progress on regional issues, including independence for Namibia, stalled. US allies were also disconcerted; they were not sure of US policy following the juxtaposition of the Reagan speech and the veto override.

On the positive side, many liberal South Africans today believe the legislation did push the SAG along the path of reform. Moreover, the legislation did reestablish U.S. credibility with black South Africans. Contacts with these groups improved markedly. For those people who believed disinvestment was the answer, the legislation was satisfying. American business accelerated its withdrawal from the South African capital markets.

LESSONS TO BE LEARNED

The administration's experience with the Anti-Apartheid Act provides several lessons for the student of executive-legislative relations. First, policymakers must be sensitive to issues which Americans perceive as inconsistent with their values. The American devotion to human rights and its own civil rights experience, which seems in many ways so similar to South Africa's, were the wellsprings of opposition to constructive engagement. Indeed, one

official remarked that in many ways, it was surprising the debate had waited so long. Great Britain had debated the issue in the 1960s.

Second, in such circumstances, symbolic actions carry much weight. An invitation to a prominent South African opposition figure during the summer of 1986 might have done much to calm the waters. Reagan refused. In contrast, President George Bush pointedly invited Albertina Sisulu, wife of the then-imprisoned ANC General Secretary, to the White House before F. W. de Klerk, then the leader of the National Party, visited Washington.

Third, policymakers must be able to articulate policy in a way which shows both its geostrategic and moral foundations. Constructive engagement included both elements, but too often, it appeared to be a policy of only realpolitik. A South African black once remarked that the Embassy was far more effective than the administration in demonstrating concern.

Fourth, a strong National Security Council can make the policy process more effective. The foreign policy successes of the final two years of the Reagan administration, when Frank Carlucci and Colin Powell were the National Security Advisors, demonstrates this point. A stronger NSC in 1986 would have coordinated policy and kept the President aware of the consequences of his acts.

Finally, the veto override illustrates the importance of keeping open the lines of communications with Congress. While no president or secretary of state is anxious to have 535 competitors, efforts to enhance understanding and foster an exchange of views

can lead to actions supportive of administration policies. Senators Dole, Lugar, and Kassenbaum were willing to help the administration, but the White House, through its own actions, essentially lost the party. White House staffers, perhaps imbued with their own beliefs, failed to realize that sanctions were not a partisan issue but an issue about which many Americans felt deeply. When the President refused to compromise, Congress considered itself obliged to make the will of the people clear.

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